

In re) Fair Hearing No. 15,960
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Appeal of)

The petitioner appeals a decision of the Department of Social Welfare closing her ANFC and Food Stamp benefits. The only issue is whether the notice was sent in a timely manner.

1. The petitioner was a recipient of ANFC and Food Stamps who began receiving unemployment benefits in the month of April, 1999. She duly reported this fact to the Department and after a recalculation of her eligibility, it was determined that her new income was in excess of the maximums for both programs.

2. The Department mailed the petitioner a letter notifying her of her ineligibility on April 21, 1999. The notice informed her that her benefits would cease as of May 1, 1999.

3. The petitioner received the letter on April 22, 1999, and immediately appealed it because she felt she did not have sufficient advance notice of the termination. She does not dispute the fact that her unemployment benefits made her ineligible for both programs. She has continued to receive benefits pending this appeal.

ORDER

The decision of the Department is affirmed.

REASONS

The regulation governing all programs administered by the Department of Welfare states that "applicants for and recipients of assistance or benefits. . .shall be furnished, prior to implementation of any decision affecting their receipt of such aid or benefits, a written notice which. . .must be mailed no less than 10 days prior to the effective date of the proposed action. W.A.M. 9 2143.

The rules governing timeliness of notices in the Food Stamp program itself provide as follows:

Use of notice

Prior to any action to reduce or terminate a household's benefits within the certification period, the State agency shall. . .provide the household timely and adequate advance notice before the adverse action is taken.

1. The notice of adverse action shall be considered timely if the advance notice period conforms to that period of time defined by the State agency as an adequate notice period for its public assistance caseload, provided that the period includes at least 10 days from the date the notice is mailed to the date upon which the action becomes effective. . . .

F.S.M. 273.13a

The ANFC regulations also specifically require that all recipients "shall be furnished, prior to implementation of any decision affecting their receipt of such aid or

benefits, a written notice which. . .must be mailed no less than 10 days prior to the effective date of the proposed action." W.A.M. 9 2228.

The petitioner argues that she should have received ten days to prepare for this closure from the date that she actually received the notice, April 22, 1999. However, the above regulations do not measure the beginning of the advance notice period from the date of the receipt of the notice, but rather from the date of the mailing. In this case, the undisputed facts show that the Department mailed the notice of closure to the petitioner on April 21. The effective date of the closure action was May 1. The advance notice period, in this case, ran from April 21 through April 30, a period of ten days. The petitioner got the bare minimum amount of notice required by the regulations. Although that time may not have been generous, it cannot be said to be illegal. As the Department's action is not inconsistent with its regulation, the Board is bound to uphold it. 3 V.S.A. 3091(d) and Fair Hearing Rule 17.

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